

REMARKS

Claims 10-20 are pending in this application. Claims 10-14 have been amended in several particulars for purposes of clarity and brevity that are unrelated to patentability and prior art rejections, in accordance with current Office policy, to further and alternatively define Applicants' disclosed invention and to assist the Examiner to expedite compact prosecution of the instant application.

Claims 10-20 have been previously allowed but since withdrawn in view of newly discovered and cited prior art, Hirotaka, Japanese Patent No. 8106439. As a result, all pending claims 10-20 have now been rejected under 35 U.S.C. §103(a) as being unpatentable over Hirotaka '439, in view of what the Examiner alleges as "Official Notice". This rejection is in error, however, and is respectfully traversed at least for reasons discussed herein below.

Hirotaka '439 discloses only a portable information terminal provided with a schedule access means 8 which allows a user to inquire a schedule of another user, via an external computer; a schedule response means 9 which sends back schedule information according the user's inquiry; and a free time retrieval means 10 which retrieves the common free time of the another user. In other words, Hirotaka '439 discloses the concept of a person-base idle time retrieval.

In contrast to Hirotaka '439, Applicants' disclosed invention is directed to a different schedule management system as shown in FIG. 1 in which a multistageous idle-time retrieval unit 112 is used to permit a user to retrieve idle time of a schedule of different groups. Schedules of participants and equipments are divided or classified into groups by their order of significance so that idle-time retrieval is executed multistageously on the groups. As a

result, idle time can be retrieved so that the significance of the participants and equipments is satisfied. Each scheduled subject (i.e., participant or equipment) may be classified as “essential”, “optional” or “selective” depending on the degree of significance as shown in FIG. 5. The idle time retrieval is performed not only on the “essential” members but also the “optional” member, while the retrieval results are handled differently.

The grouping of participants and/or equipments in the order of their such as “essential”, “preferential”, and “optional” is well defined in each of Applicants’ independent claims 10, 11 and 13. For example, independent claim 10 defines an idle time retrieval in which “a degree of significance is provided to said participants respectively so that schedules of said participants are grouped in the order of said degree of significance to thereby retrieve the idle time corresponding to said degree of significance among said different groups”. Likewise, independent claim 11 defines a multistageous idle time retrieval unit which divides schedules registered for participants and equipments into a plurality of groups and retrieves an idle time common from one group as a retrieval condition for retrieving an idle time common for another group of said plurality of groups of participants.” Similarly, independent claim 13 defines “retrieving means for ... retrieving common idle time among said plurality of groups while a degree of significance of respective groups into account.” Independent process claims 12 and 14 further define “dividing a subject people of a schedule into a plurality of groups” and “comparing one of said plurality of groups ... repeatedly” in order to output “a retrieval result obtained”. In other words, retrieval is performed in groups, and the retrieval result is used as the retrieval condition in the next retrieval on the “preferential” group in order to reduce the number of retrievals.

Recognizing the fundamental distinctions between the group-based idle time retrieval of Applicants' disclosed invention and the person-based idle time retrieval of Hirota '439 in which Hirota '439 fails to disclose the "degree of significance provided to participants or equipments so that schedules of participants are grouped in the order of degree of significance to thereby retrieve the idle time corresponding to the degree of significance", the Examiner has incorrectly and conveniently taken Official Notice of the very novelty of Applicants' disclosed invention, that is, "the grouping people or equipment based on the degree of significance" as being "old and well-known in the art of scheduling a meeting."

However, the Official Notice taken by the Examiner and the Examiner's obviousness assertion are legally improper.

First of all, Official Notice is always improper as a matter of law if taken on novel features of Applicants' disclosed invention. In the present situation, the grouping of participants or equipments based on the degree of significance feature of Applicants' claims 10-20 is one of the very novel features disclosed. As a novel feature disclosed, the Examiner may **not** rely on matters of judicial notice at exact point at which patentable novelty is argued. Ex parte Cady, 148 U.S.P.Q. 162 (POBA 1965). Determination of obviousness must be based on facts, not on unsupported generalities. In re Warner, 379 F.2d 1011, 154 USPQ 173 (CCPA 1967); In re Freed, 425 F.2d 785, 165 USPQ 570 (CCPA 1970). "It is fundamental that rejections under 35 U.S.C. §103 must be based on evidence comprehended by the language of that section." In re Grasselli and Hardman, 713 F. 2nd 731, 739, 218 USPQ 769, 775 (CA FC 1983). Therefore, unless prior art is cited for disclosing the claimed feature, the rejection must be withdrawn as both the M.P.E.P. and C.F.R. require the Examiner to produce

evidence to support the Official Notice taken, if challenged by the Applicants as the Applicants have done here. There is no indication anywhere in the cited prior art, including Hirota '439 of any "grouping of participants or equipments based on the degree of significance"

Nevertheless, the Examiner argues that:

"it is obvious that the process of retrieving an idle time common from one group as a retrieval condition for retrieving an idle time common for another group of plurality of groups will work the same as retrieves an idle time common from one person as a retrieval condition for retrieving an idle time common for another person of plurality of people, because one group may contain only one person."

However, this line of argument is incorrect. If a group contains only one person as seemingly asserted by the Examiner, then the number of idle time retrievals can be very large and the computer load can also be very large and burdensome. This would defeat the very intended purpose of Applicants' disclosed invention which is to divide the number of participants (people or equipment) into groups so that the number of idle time retrievals can be reduced, by using the previous-retrieval-result-using retrieval.

Further, the grouping according to Applicants' disclosed invention can be used to specify a condition of a meeting. For example, at least one person in each section is required to attend the meeting. In this case, a section is a grouping unit. The group-unit idle time retrieval provides such a function, as described in claim 15, page 2, lines 17-25, page 4, lines 5-13 of the specification. If one group contains only one person as assumed above, the retrieval condition such that at least one person of each group is required to attend the

meeting does not work.

The law under 35 U.S.C. §103 is well settled that "obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination." ACS Hospital System, Inc v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). The Examiner must point to something in the prior art that suggests in some way a modification of a particular reference or a combination of references in order to arrive at Applicants' claimed invention. Absent such a showing, the Examiner has improperly used Applicants' disclosure as an instruction book on how to reconstruct the prior art to arrive at Applicants' claimed invention.

In the present situation, since Hirota '439 fails to show Applicants' schedule retrieval technique and the use of a "multistageous idle-time retrieving means" in the manner defined in each of Applicants' claims 10-20, Applicants respectfully request that the rejection of claims 10-20 and their respective dependents be withdrawn. For purposes of expedition, independent claims 10-14 have been amended to avoid potential ambiguities and for purposes of clarity and brevity that are unrelated to patentability or art rejections.

In view of the foregoing additions and remarks, all claims are deemed in condition for allowance. Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney at (703) 312-6600.

INTERVIEW:

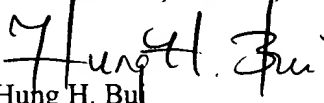
In the interest of expediting prosecution of the present application, Applicants

respectfully request that an Examiner interview be scheduled and conducted. In accordance with such interview request, Applicants respectfully request that the Examiner, after review of the present Amendment, contact the undersigned local Washington, D.C. area attorney at the local Washington, D.C. telephone number (703) 312-6600 for scheduling an Examiner interview, or alternatively, refrain from issuing a further action in the above-identified application as the undersigned attorneys will be telephoning the Examiner shortly after the filing date of this Amendment in order to schedule an Examiner interview. Applicants thank the Examiner in advance for such considerations. In the event that this Amendment, in and of itself, is sufficient to place the application in condition for allowance, no Examiner interview may be necessary.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (500.35669CX1).

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

Respectfully submitted,
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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Please **amend** claims 10-14, as follows:

1 **10. (Twice Amended)** A schedule management system, comprising:
2 a schedule server which stores schedules of participants and schedules of equipments
3 reserved by ones of said participants in different groups; and
4 a plurality of remote client devices operatively connected to said schedule server,
5 which allow client users to input schedules of said participants and request an idle time
6 retrieval from said schedule server, wherein a degree of significance is provided to said
7 participants respectively so that schedules of said participants are grouped in the order of said
8 degree of significance to thereby ~~produce~~retrieve the idle time corresponding to said degree of
9 significance among said different groups.

1 **11. (Amended)** A schedule management system, comprising:
2 a schedule server which stores schedules of participants and schedules of equipments
3 reserved by ones of said participants in different groups; and
4 a plurality of remote client devices operatively connected to said schedule server,
5 which allow client users to input schedules of said participants and request an idle time

6 retrieval from said schedule server,
7 wherein said schedule server comprises one or more databases which store schedules
8 of participants and schedules of equipments reserved by ones of said participants, and a
9 multistageous idle time retrieval unit which divides schedules registered for participants and
10 equipments into a plurality of groups and retrieves an idle time common from one group as a
11 retrieval condition for retrieving an idle time common for another group of said plurality of
12 groups.

1 **12. (Amended)** A schedule retrieval method for retrieving a schedule,
2 comprising:
3 ~~a first step of~~ accepting a first conference holding condition of said schedule;
4 ~~a second step of~~ dividing a subject of said schedule into a plurality of groups;
5 ~~a third step of~~ comparing one group in said plurality of groups obtained by division
6 with said first conference-holding condition to make a coincident result be a second
7 conference-holding condition;
8 ~~a fourth step of~~ comparing one of said plurality of groups, which is not yet compared
9 with any previous conference-holding conditions, with said second conference-holding
10 condition to obtain a retrieval result; and
11 ~~a fifth step of outputting a~~said retrieval result obtained ~~by said fourth step~~.

1 **13. (Amended)** A schedule server apparatus coupled to terminal apparatuses
2 allocated to schedule-reserving persons and schedule-reserved persons through a

3 communication line for retrieving idle time of a schedule, comprising:
4 communication control means for transmitting data to said terminal apparatuses and
5 for receiving data from said terminal apparatuses; and
6 retrieving means for dividing each of schedules registered for a plurality of ~~people~~
7 ~~or participants and/or~~ a plurality of equipments into a plurality of groups and retrieving
8 common idle time among said plurality of groups while taking a degree of significance
9 ~~degrees~~ of respective groups of participants and/or equipments into account.

1 **14. (Amended)** ~~A recording capable of being read by a computer, storing a~~
2 ~~program~~ computer readable medium comprising instructions for retrieving idle time of a
3 schedule that, when executed by a computer system, perform the method comprising:
4 accepting a first conference-holding condition of said schedule;
5 dividing a subject of said schedule into a plurality of groups;
6 comparing one group in said plurality of groups obtained by division with said first
7 conference-holding condition to make a coincident result be a second conference-holding
8 condition;
9 comparing one of said plurality of groups, which is not yet compared with any
10 previous conference-holding conditions, with said second conference-holding condition; and
11 outputting a retrieval result obtained by comparison.